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AUTHOR	Rust, James
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ABSTRACT

After briefly reviewing the history and characteristics of the office of the Ombudsman, the author discusses the establishment of that office at Michigan State University. The functions of the Ombudsman, who is to be appointed by the President from among the senior faculty are to establish procedures for receiving requests, complaints, and grievances of students, and to assist students in settling their problems expeditiously. He is to have broad investigatory powers and ready access to all University officials from the President down. The office opened in the Fall of 1967. Complaints have fallen in two broad categories: nonacademic problems-e.g., fees and tuition, housing, vehicle registration and traffic regulations, student employment, use of University facilities and services, and personal problems-and academic problems-e.g., admission and registration, instruction, academic requirements, academic status, and academic advice. In functioning in the Office, the Ombudsman has had to listen, advise, explain, refer and review. The possibility of appealing grievances has been of considerable importance to the students. (AF)

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A CAMPUS OMBUDSMAN LOOKS AT HIS JOB

This brochure has been prepared because I have received a considerable number of requests for information concerning the office of University Ombudsman which I hold at Michigan State University. I shall give, in what follows, a brief account of the office of the Ombudsman as it is found in several countries, but especially Denmark and Sweden, shall explain the appearance of this office on the campus of Michigan State University, tell something about the method and criteria of appointment, and describe the responsibilities and operations of the office.

First, some history of the institution in Scandinavia. It all started in Sweden during the reign of King Charles XII. As a result of the Russian victory over the Swedes at Poltava in 1709, the Swedish king was an unwilling guest of the Turkish Sultan until 1714. During the five years of his absence from Sweden, Charles ruled through a Council of Ministers and the bureaucracy of the Royal Court. In 1713 he wrote one of his trusted aides to keep an eye on the bureaucracy - especially the judges and the tax collectors. After his return from exile in 1714 he was so pleased with this arrangement that he made it permanent, giving the official the title of Chancellor of Justice.

Almost a century later, after Sweden had become a constitutional monarchy by the Constitution of 1809, the Parliament decided that it also needed a watchman. So came into existence the Ombudsman. The Ombudsman, however, has come to be the more active and important of the two officials, and it is that title which has come to be used in popular parlance in many countries, regardless of what the official title actually is. Such offices exist not only in Sweden, but in Norway, Denmark, Finland, New Zealand, and most recently Great Britain. One American state, Hawaii, has within the past year established the office.

Most of these offices were established in response to a feeling that government was getting so big and impersonal that Joe Citizen needed someone in high position to look out for his interests because not always do those who administer the law do it in the spirit in which it was created. Human frailty being what it is, sometimes bureaucrats become arrogant and need to be checked, and even judges are not infallible so that it does no harm to have someone looking over their shoulders as they write their decisions.

What are the duties and the powers of Ombudsmen? This question can be answered in part by saying what they are not. The Ombudsmen do not take part in the legislative process - they are not policy-makers. They do not have the power to reverse decisions made by the courts or governmental agencies. In Denmark the Ombudsman may order the public prosecutor to investigate the conduct of a public servant or to commence criminal proceedings against him. It is interesting that in the years since his appointment, the present (and only) Danish Ombudsman has never ordered such action. The Swedish Ombudsman has similar powers. In addition all these officials in various countries have great powers of investigation, with theoretically unlimited access to official records. Finally, the Ombudsmen can often explain actions by the courts or administrative agencies which citizens do not understand. In this connection the Danish Ombudsman publishes frequent articles in newspapers and magazines about problems that have come to his attention. In this way, the Ombudsmen serve a valuable educational function for the general public as well as those immediately concerned.

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However, the Ombudsman's principal power is expressed in the Danish statute in this innocuous sounding sentence: "In any case the Parliamentary Commissioner may always state his views on the matter to the person concerned." This simple statement contains the Ombudsman's real muscle. The fact that he has the power to voice his opinion enables him to exercise a guiding influence on public servants and provides him with a legal basis for negotiating with the agencies concerned. In those countries having an Ombudsman this power of criticism has been proved to be remarkably potent. Professor Hurwitz, the Danish Ombudsman, puts it this way, "Persuasion is more enduringly forceful than edict."

For the most part the Ombudsmen operate behind the scenes to correct conditions eliciting complaints. As a matter of fact, most of the time their reports simply announce conclusions that have been reached with various officials and reveal nothing of the negotiations involved. The process is aptly described as "discussion before pronouncement." *

As you have read this summary of the history and characteristics of the Office of the Ombudsman, I suspect that certain analogies have presented themselves to you. As government has grown so vast and complex that the individual citizen feels helpless and frustrated when he has to deal with a government agency, so have universities grown so large and complex that students often feel that they are no more than IBM cards. As citizens need help in dealing with government bureaucracy, so do students need help in coping with University faculty and functionaries.

The adaptation of the concept of the Ombudsman to an American "multiversity" began almost three years ago when the faculty and the administration at MSU became concerned about student unrest. The President asked the Faculty Committee on Student Affairs to study the whole problem and make recommendations that would hopefully give the students a larger share in the educational enterprise and help to alleviate the impersonality inherent in an institution with an enrollment of 39,000. One of the recommendations in the report of this committee was that an official should be appointed with the title of Ombudsman. The office is described in Article 8 of the report, as follows:

> The Office of the Ombudsman
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> The President shall appoint from the senior faculty a high prestige official with the title of Ombudsman. The sensitive and confidential nature of the Ombudsman's work dictates that he conduct his operations with dignity and integrity. He shall respect the privacy of all persons who solicit his assistance and protect them against retribution. His functions shall include the following charges:
>
> He shall establish simple, orderly procedures for receiving requests, complaints and grievances of students.
>
> He shall assist students in accomplishing the expeditious settlement of their problems. He may advise a student that the student's request, complaint or grievance lacks merit, or that the student should

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* This summary is based upon Walter Gellhorn, Ombudsmen and Others, Harvard University Press, 1966.

seek his remedy before another duly constituted body or officer of the university; or the Ombudsman (if he deems it appropriate) may assist the student in obtaining an informal settlement of the student's problem.

In the performance of his duties the Ombudsman shall have broad investigatory powers and direct and ready access to all university officials from the President down.

When the Ombudsman deems it necessary he shall report directly to the President valid complaints for which no remedy has been found. He shall also report any recommendations he wishes to make regarding such complaints.

He shall make periodic reports to the President regarding the operation of the Ombudsman's office.

Please observe the following about this article: One, the charge to the Ombudsman is phrased in rather general terms so that the person appointed would have fairly wide latitude in creating the post to fit his own conceptions of the role. Two, the Ombudsman should be appointed from among the senior faculty and the position should be one of "high prestige." Three, he is outside the regular table of organization, representing the President of the University and reporting to him (or to his deputy, the Provost). Four, the Ombudsman has "broad investigatory powers" and "direct and ready access to all university officials." Subsumed under the phrase "broad investigatory powers" is the privilege of access to all university student records except those involving professional confidence, as in the Medical Center of the Mental Hygiene Clinic.

You will also notice that the Ombudsman is to be appointed by the President. The appointment process was approximately this: The Provost solicited nominations from the Deans, from faculty members, and especially from student leaders. This process resulted in a list of approximately 65 names. A selection committee from student government studied this list, putting the names into three categories "recommended," "acceptable," and "not acceptable" and then reporting the results to the Provost. At length a first recommendation and alternates were submitted to President Hannah, who then made his recommendation to the Board of Trustees. Among the criteria for appointment seem to have been an ability to relate to students, experience as a classroom teacher and student adviser, the ability to say no as well as yes, a wide acquaintance among faculty and administration, and a good knowledge of the workings of the university. The funds for the operation of the office come from the general fund through the President's budget.

The office opened for "business" with the beginning of the Fall term 1967. The "simple, orderly procedures" prescribed in Article 8 have been established. The student who comes in to see the Ombudsman fills out a simple form, giving his name, student number, class, major, and college. Then he completes the following statement, "I wish to consult the Ombudsman about . . ."* Having filled out this form, he is given the opportunity to express his grievance privately, behind closed doors, to the Ombudsman.

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* See attached sample.

In accord with the injunction of the Freedom Report, the Ombudsman tries "to assist the student in obtaining an informal settlement of the student's problems." The controlling word here is "informal." There is no formal hearing before a board or committee, only the student and the Ombudsman in a relatively quiet office. This is where the Ombudsman performs one of his most valuable services. He listens. He listens to the student's story, occasionally asking questions or making comments and taking notes. Many times has he been told, "You're the first person I have found who will listen to me!" Sometimes students have said that all they wanted was for someone to listen, especially when they had only generalized comments to make.

Following the conversation with the student, the Ombudsman investigates to determine whether the student's complaint is truly justified. If it involves an instructor, he must be given the opportunity to state his view of the matter. If it involves an administrative official, he must be consulted to learn whether the student has fully and accurately reported the matter. Following the investigation, the Ombudsman reports, either orally or in writing, the results of his investigation to the complainant, together with a statement that his allegation has or does not have merit. If the former, a recommendation for further action is made or the matter is settled out of hand. Often this investigation involves merely a phone call; sometimes, however, it can consume hours and spread over several days.

The University Ombudsman, like his governmental counterparts, is concerned with complaints about arbitrary and capricious enforcement of regulations, with requests for help in a great variety of situations, with explanations of the meaning of regulations and the necessity for their existence. Students, being late adolescents or young adults, desire complete freedom of behavior, but they want also to be protected against the possible results of their behavior. They are very quick to take offense against what they regard as infringements on their rights and, being human and relatively inexperienced, they sometimes misinterpret or misunderstand. As a result some of their complaints or grievances, when examined and investigated, are revealed to be without real foundation.

Let me quit speaking in generalities and discuss more precisely the various kinds of problems that students have brought to me. These fall into two large categories, which can in turn be further sub-divided. The first category consists of non-academic problems. These have been further classified as 1) Problems of fees and tuition 2) Problems of housing 3) Problems of vehicle registration and traffic regulations 4) Problems of student employment 5) Use of university facilities and services 6) Personal problems.

The second category is academic problems. The sub-categories here are 1) Problems of admission and registration 2) Problems of instruction 3) Problems of academic requirements 4) Problems of academic status 5) Problems of academic advice.

I shall mention examples in each classification. Michigan State, like many other institutions, has been forced to raise tuition several times over the last few years. Consequently, students have come to me (in varying degrees of indignation) to protest the latest increase in tuition. Others come to the Ombudsman about fee refunds when they have reduced their academic loads, about late

registration fees and other charges, such as those for replacing a lost ID card or purchasing a bus pass. One of my most interesting cases involved a mistake made in the Course Schedule for Summer Term 1968. In error, a five credit course had been listed as a four credit course. The error was discovered before registration was completed and those who registered after this discovery were charged for five credits. Letters were sent to those who had paid for four instead of five, requesting an additional sum of money. Several of these students came to the Ombudsman. After investigating, he recommended that since it was an error of the university, those students who had paid for five credits should receive refunds and those who had paid for four should receive notes cancelling the request for more fees. The Ombudsman recommended to the President a change in the method of assessing tuition which he thought would eliminate some of these inequities. Subsequently the Board of Trustees accepted the recommendation, which will become effective in the Fall of 1969.

One of the most frustrating duties the Ombudsman has is to explain why students from states other than Michigan must pay a considerably higher tuition than native students. They come for help when scholarship or loan funds are slow of arrival or when any one of an almost infinite number of possible mistakes is made by the Office of Financial Aids, the University Business Office, or the Registrar's Office.

Housing problems arise when students living in the University dormitory system (as they are required to do until they reach the age of 21 or become seniors) wish to move off campus into unsupervised housing. Troubles often erupt between married students living in apartments built and maintained by the University and the Married Housing Office. Students living off campus in unsupervised apartments often come to me for advice about leases, rents, and damage deposits. Not being a lawyer, I advise them to seek legal help.

Many differences of opinion arise between students and university officials, especially the campus police force, about the registration of student automobiles and about summonses given for violation of university traffic and parking regulations. I have even been asked whether I could fix a parking ticket!

Another source of difficulty and complaint is student employment. Hourly wage rates vary among different departments of the university, leading to complaints that students working in this or that kind of job are being discriminated against. I have had several complaints from bearded and long-haired young men who have been refused jobs in university kitchens or cafeteria serving lines. An explanation of the sanitary hazards involved usually cleared up the complaint. A few have come to me because they felt they had been unfairly fired from their jobs. One young woman had not received a full two weeks termination pay; investigation proved a mistake had been made and the error was corrected.

Students have complained about the service in the University Health Center and some part-time students have been helped to admission in the Center.

The University Library has been a source of friction, especially when students have been fined for not returning books which they swear were returned before the due date. Most of these differences of opinion can be settled by referring the student to the proper official in the library.

There are always a few students who bring their personal problems to the Ombudsman. When it seems appropriate, they are referred to the Counseling Center for emotional or psychiatric counseling. Two or three unhappy pregnant coeds have asked advice and have been referred to social agencies or physicians. Most of them, however, simply wanted to talk to someone.

The other large category of complaints and grievances concerns academic matters. One of the principal reasons why the Faculty Committee on Student Affairs recommended the appointment of an Ombudsman was their concern over the number of students who had complained to them about bad teaching, about instructors who cut classes time after time, about rudeness and what can only be called arrogance on the part of some professors, and about various other forms of unprofessional conduct. Last year this category of grievances accounted for 52% of all the "business" the office of Ombudsman had.

The process of getting enrolled and registered in classes in a multiversity can be for many students a confusing and frustrating experience. Despite the fact that more than 90% of our students get the courses they want during the academic quarter they want or need them, there are always some who have trouble. The Ombudsman has helped, either by getting them into the courses they needed, by arranging a substitution, or simply by explaining why they could not have what they wanted. Problems arise also when a student wants to add a course after registration has ended or to drop out of a class in which he is enrolled. A recommendation from the Ombudsman that the policy concerning late drops from courses should be made more flexible, after study by a faculty committee and a committee of Assistant Deans, was accepted and will go into effect Fall 1969.

The largest single classification of academic problems is that which I have called Problems of Instruction. This includes the inevitable disputes about grades, about which not very much can be done. No one can give a grade except the instructor who taught the course and he is the only person who can change it. The problem is that almost universally, professors believe they have given the correct grade and adamantly defend that position. According to the Academic Freedom Report (the name by which the faculty committee's report is commonly known) the student can have a hearing before a faculty committee on the department level and again on the college level. I have known of several successful appeals on the departmental level but very few have gone beyond that.

Other complaints are about professors not keeping appointments or office hours. Students complain about instructors who miss classes. They are confused because instructors do not give clear instructions about what they expect of students and because they do not give adequate criticism on written work. Some instructors change their minds about their courses half way through the term; they also revise their grading standards and systems, sometimes without telling the students. Of course, students complain about the professor who lectures from thirty-year-old notes and gives the same exams year after year. They grumble also, and rightly, about the instructor in, let's say, English, who talks more about the Vietnam war and politics than about Shakespeare. Students don't like sarcastic and sharp-spoken professors, or professors who mumble so they cannot be heard beyond the third row of the lecture hall.

Of course, the Ombudsman immediately gets in touch with the instructor concerned and hears his view of the situation. In the majority of instances the whole

matter can be settled right then and there. Incidentally, the Ombudsman will not listen to a complaint of this kind unless the student has already discussed it with the instructor. Though many such complaints are really misunderstandings, there remains a hard core of legitimate grievances. The Ombudsman is often frustrated at his lack of power or the absence of a committee or judicial body with the authority to discipline rude, incompetent, careless, indifferent, or arrogant faculty members. In an attempt to do something about these problems, the Ombudsman has recommended that a "Code of Professional Conduct," be promulgated. A faculty committee is working on these guidelines and will present them to the appropriate faculty governing body in the Fall.

It might be well now to say something about how an academic Ombudsman operates.

What does he do when a student comes to him? What action does he take? What response does he make?

To repeat, he listens. A considerable number of students seems to want nothing more than a chance to talk with someone who will really listen. To be a courteous, even sympathetic listener is the first duty of a college or university Ombudsman. As a careful listener, not only can he reduce the student's head of steam, but he can also learn much that will be of value to him both in the current instance and also in future cases.

He advises. By no means all the students who come in are complaining about the arrogant, capricious, or unprofessional behavior of an administrator or a faculty member. A sizable percentage simply want advice about a wide variety of problems. These range all the way from legal questions, such as problems concerning leases in off-campus apartments, a divorce suit, a possible suit for false arrest, or many other situations. Of course, not being a lawyer, I make no effort to give legal advice on such matters; the only advice I give is for the student to get a lawyer and I help him do that if I can. Students also ask for advice concerning academic matters. I have had long conversations with students about their choice of majors and whether they should get a certain requirement completed early or postpone it.

He explains. It has been my observation over many years that students are sensible, reasonable people. Many of the complaints that they bring to me are the result of misunderstanding or insufficient information. When someone explains why it is that they must do this or that or may not do the other, the great majority will accept the situation with good grace. For example, when a student learns why the faculty of the College of Arts and Letters insists on second year foreign language competency for the B.A. degree, he may not be any more enthusiastic about German, but he is more likely to work for that competency without grumbling. So also the student from Ohio or New York who would like to pay in-state tuition. "After all," he says, "I am married, I have Michigan license plates on my car, I pay Michigan sales taxes and income tax, and I am going to vote in Michigan in the next election. Shouldn't I be permitted to pay Michigan resident tuition?" When I have explained to him the provisions of the Joint Resolution of the Legislature, which governs this matter, again he may not be happy about it, but he understands why he must continue to pay out-of-state tuition and feels less rebellious.

He refers. Many students come to me with questions, complaints, or problems that can best be dealt with by another faculty member or official of the University.

Thus a student who comes to me with a problem that is properly the responsibility of the Dean of Students will be referred to him, usually after a phone conversation in which I explain the problem and perhaps recommend a solution. Or the student will be referred to the Assistant Dean for Student Affairs of his college if he has an academic problem. If it is a personal matter he will be sent to the Counseling Center; to the Registrar's office if it concerns his records, or to the Business office, if money is involved.

This is the action taken in most of the cases that come to me. It often seems to me that I function as a kind of information center telling students where they can find the answers to their questions and who can help them. This information, however, is always accompanied by a recommendation to the administrator or faculty member involved. I am sometimes surprised at how little students know about the help available to them even after four or more years on campus.

He reviews. Often a student comes to the Ombudsman because he is unhappy with a decision made by some university functionary. For example, perhaps he has asked permission to move from a dormitory room to a room or an apartment off campus. Of course, when a student enters a dormitory, he signs an agreement that he will stay there until the end of the school year. If he wishes to break what is in effect a lease, he must appeal to a committee. Sometimes the student whose appeal has been rejected will come to me for help. In such instances, I will review all the steps of the appeal, including all the evidence the student has presented to support his request. If I find that the student has been treated fairly, that he has received all the consideration that is his due, then I tell him that he has no grounds for complaint. However, I have been able several times to call the committee's attention to evidence which they had overlooked or to which they had not attached sufficient weight and they have changed their decision to favor the student. In other instances I have reviewed the action of Assistant Deans in withdrawing students from school for academic shortcomings and have checked on the decisions of the Office of Fee Determination or the Registrar concerning refunds of fees. In every instance, when I review decisions made by University officials or committees, it is with the purpose of determining whether the student has been treated fairly and justly.

As can be seen from this summary, the Ombudsman at Michigan State deals with problems and grievances of many different kinds. Many arise from misunderstanding or human fallibility. Some arise from the attempts by clerks and secretaries to deal with matters they are not really qualified to handle. Many, of course, turn out to be groundless when carefully investigated. Nevertheless, the fact that there was someone to whom the student could appeal is of considerable importance.

In the best of worlds, there would be no need for an Ombudsman, for all public servants and all faculty members and employees of universities would be doing their jobs perfectly. Until that world arrives, however, trouble-shooters, whether called Ombudsmen or not, will be needed.

Revised
23 July 1969

Dr. James Rust
Michigan State Univ.

No. _____

OFFICE OF THE OMBUDSMAN

Date _____

Name _____ Student Number _____

College _____

Major _____ Class F S J S G Spec. Program (Circle One)

Local Address _____

_____

Telephone _____

I wish to consult the Ombudsman about